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OFFICE OF PETITIONS

WILSON, SONSINI, GOODRICH & ROSATI  
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PALO ALTO CA 94304-1050

In re Patent No. 7,601,694  
Issued: October 13, 2009  
Application No. 10/782,728  
Filed: February 18, 2004  
Attorney Docket No. 31747-705.201

:DECISION ON REQUEST  
: FOR RECONSIDERATION  
: OF PATENT TERM ADJUSTMENT  
: AND  
: NOTICE OF INTENT TO ISSUE  
: CERTIFICATE OF CORRECTION

This is a decision on the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. § 1.705(d)" filed December 11, 2009, requesting that the patent term adjustment determination for the above-identified patent be revised to 925 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).<sup>1</sup>

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred twenty-four (924) days is **GRANTED** to the extent indicated herein.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on February 18, 2007 and ends on July 29, 2008, the day before the RCE was filed, the B delay is 527 days, not 528 days See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 924, not 925 days.

The Office acknowledges the authorization to charge the \$200.00 fee set forth in 37 CFR 1.18(e) to deposit account no. 23-2415.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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<sup>1</sup>Reconsidered in light of the Court of Appeals for the Federal Circuit's decision in Wyeth v. Kappos, 2009-1120 (Fed. Cir. 1-7-2010).

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred twenty-four (924)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

A handwritten signature in black ink, appearing to read 'Anthony Knight', with a stylized flourish at the end.

Anthony Knight  
Director  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

**DRAFT**  
**UNITED STATES PATENT AND TRADEMARK OFFICE**  
**CERTIFICATE OF CORRECTION**

PATENT : 7,601,694 B2

DATED : October 13, 2009

INVENTOR(S) : Peter C. Brooks

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (490) days

Delete the phrase “by 490 days” and insert – by 924 days--